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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,325	08/29/2003	William Joseph Butsch	9350	1633

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EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,325

Applicant(s)

BUTSCH ET AL.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4 sheets.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, drawn to separating apparatus, classified in class 242, subclass 521.
 - II. Claims 9-19, drawn to a method of separating a web material, classified in class 225, subclass 4.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process; for example, without the specific rotating steps.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with Mr. Peter Meyer on March 15, 2005, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 9-19 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

7. The information disclosure statements filed on November 24, 2003, June 15, 2004, February 7, 2005, and March 3, 2005 have been received and the references listed thereon have been considered.

Drawings

8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Numeral 236, described on page 4, line 20, which refers to the open chamber of pin pad 230, and it seems that numeral 236 should be added to Figure 3 or the like.

Numeral 146, described on page 6, line 10, which refers to the serrated web contacting edge.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

9. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least three blades disposed generally transverse to the direction of travel as set forth in claims 3 and 8, the bedroll blade spacing as set forth in claims 3 and 4, and the plurality of web pin pads disposed along a line generally transverse to the direction of travel as set forth in claim 8 (twice) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application as described above.

Claim Rejections - 35 USC § 112

10. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 7, the recitation "at least one blade" is vague as to whether it refers to that previously set forth or to another such blade; also in line 7, the recitation "at least one web pin" is vague as to whether it refers to that previously set forth or to another such web pin; in lines 11-12, the recitation "at least one web pin" is vague as to whether it refers to that previously set forth or to another such web pin; in line 14, the recitation "a bedroll blade" is vague as to whether it refers to one of those previously set forth or to another such blade.

In claim 2, line 1, the recitation "a plurality of web pins" is vague as to whether it refers to that previously set forth or to other such web pins; in line 2, the recitation "a plurality of web pin pads" is vague as to whether it refers to that previously set forth or to other such web pin pads.

In claim 3, line 2, a period "." is missing which renders the claim vague and indefinite as to the scope of the claim.

In claim 6, line 1, the recitation "at least one blade" is vague as to whether it refers to that previously set forth or to another such blade.

In claim 7, line 1, the recitation "at least three blades" is vague as to whether it refers to that previously set forth or to other such blades.

In claim 8, lines 1-2, the recitation "a first plurality of web pin pads" is vague as to whether it refers to that previously set forth or to other such web pin pads; in line 3, the recitation "at least three blades" is vague as to whether it refers to that previously set forth or to other such blades; in line 5, the recitation "a plurality of web pads" is vague as to whether it refers to that previously set forth or to other such web pads.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-3 and 5, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by McNeil, pn 4,919,351.

McNeil discloses a separating apparatus with every structural limitation of the claimed invention including a plurality of web pins (e.g., see col. 4, lines 11-12) and a plurality of web pin pads (e.g., see Fig. 3).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 7 and 8, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over McNeil, pn 4,919,351.

McNeil discloses a separating apparatus with almost every structural limitation of the claimed invention but lacks (a) the chop off roll comprising at least three blades, and (b) a plurality of web pin pads disposed along a line generally transverse to the direction of travel.

Regarding (a), McNeil discloses an embodiment wherein the chop off roll comprises two blades (e.g., see Fig. 3) but does not disclose an embodiment wherein the chop off roll comprises at least three blades. However, the Examiner takes Official notice that it is old and well known in the art, particularly the web cutting/separating arts, to provide more than one cutting/separating assembly on a roll. As one example, it is old and well known in the art to provide two cutting/separating assemblies on a rotating component 180 degrees apart and that such a configuration provides well known

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benefits including providing a more efficient operation wherein the rotating component can be rotated at half speed to provide the same number of cuts/separations, or the component can be rotated at the same speed to provide twice the number of cuts/separations. Such a configuration also provides the well known benefit of facilitating less maintenance and longer runs because the cutting/separating assemblies are used half as much. Therefore, it would have been obvious to one having ordinary skill in the art to provide a second cutting/separating assembly on the apparatus of McNeil (e.g., on the opposing flat surface 44) for the well known benefits including those described above.

Regarding (b), McNeil is silent as to the number of web pin pads that extend axially along the roll. However, it would have been equally obvious to one having ordinary skill in the art to provide either a single pad that extends the entire axial length of the roll or to provide a plurality of pads along the axial length of the roll, wherein the plurality of pads may be either separated in the axial direction or may simply contact each other, end-to-end. A configuration using a plurality of axially spaced pads would provide a number of obvious benefits including the ability to remove a single damaged and/or worn pad without having to replace an entire axial length of pads. Such a benefit would translate into obvious cost savings as well as maintenance time savings. Therefore, it would have been obvious to one having ordinary skill in the art to provide a plurality of web pin pads disposed along a line generally transverse to the direction of travel for the various well known benefits including those described above.

Allowable Subject Matter

15. Claims 4 and 6 appear that they would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can be reached Monday, Tuesday, Thursday and Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Clark F. Dexter', with a long horizontal stroke extending to the right.

Clark F. Dexter
Primary Examiner
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cfd
March 21, 2005